

## Message Text

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ORIGIN L-03

INFO OCT-01 EA-11 ISO-00 SSO-00 NSCE-00 INRE-00 CIAE-00

INR-10 NSAE-00 RSC-01 DODE-00 PM-07 SS-20 NSC-07

SPC-03 MC-02 OMB-01 /066 R

DRAFTED BY L/EA:LVERVILLE:MF

APPROVED BY L/EA:LVERVILLE

EA:MR. STEARNS

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FM SECSTATE WASHDC

TO AMEMBASSY TOKYO IMMEDIATE

C O N F I D E N T I A L STATE 064547

E.O. 11652: GDS

TAGS: MARR, JA

SUBJ: SHIPMENT OF COMBAT VEHICLES TO CAMBODIA

REF: TOKYO 4196

1. DEPT HAS THUS FAR BEEN UNABLE LOCATE MEMORANDUM OF CONVERSATION REFERRED TO PARA 4 REFTEL, SO FOLLOWING COMMENTS ARE BASED ON DESCRIPTION IN REFTEL. BELIEVE REFERENCE TO "PROPORTIONATE NON-OBSERVANCE" MAY HAVE BEEN INTENDED TO DESCRIBE THE RULE OF CUSTOMARY INTERNATIONAL LAW, SET FORTH IN ARTICLE 60 OF THE 1969 VIENNA CONVENTION ON THE LAW OF TREATIES, THAT A MATERIAL BREACH OF AN INTERNATIONAL AGREEMENT BY ONE PARTY ENTITLES THE OTHER PARTY TO SUSPEND OPERATION OF THE AGREEMENT IN WHOLE OR IN PART. DEPARTMENT DOUBTS, HOWEVER, THAT SUCH DOCTRINE WAS DISCUSSED IN REFERENCE TO QUESTION OF PROVISION OF MILITARY ASSISTANCE TO CAMBODIA (OR IF DISCUSSED IN THIS CONNECTION, THAT IT COULD HAVE BEEN ON ANYTHING OTHER THAN THEORETICAL BASIS), SINCE PROVISION OF MILITARY ASSISTANCE TO CAMBODIA IS CLEARLY NOT/NOT IN VIOLATION OF VIETNAM AGREEMENT.

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2. OTHER REFERENCE IN PARA 4 REFTEL TO TIME FOR TAKING

EFFECT OF ARTICLE 20, WAS PROBABLY REFERENCE TO UNDERSTANDING OF PARTIES TO AGREEMENT THAT THE TIMING OF THE REQUIREMENT IN ARTICLE 20(B) FOR WITHDRAWAL OF FOREIGN FORCES AND CESSATION OF MILITARY ACTIVITIES WOULD DEPEND UPON HOW QUICKLY A CEASEFIRE COULD BE ESTABLISHED IN CAMBODIA. (SEE STATE 166359 OF AUG 21, 1973, FOR DIET ANSWERS FURNISHED GOJ ON ANOTHER QUESTION). IT WAS ALSO UNDERSTOOD THAT PARTIES TO THE AGREEMENT WOULD DO THEIR BEST TO BRING ABOUT AN EARLY CEASEFIRE IN CAMBODIA. NOT ONLY HAVE NORTH VIEWNAMESE FORCES FAILED TO WITHDRAW FROM CAMBODIA BUT COMMUNIST FORCES IN THAT COUNTRY HAVE SHOWN NO WILLINGNESS TO EVEN NEGOTIATE A CEASEFIRE. PROVISION OF MILITARY ASSISTANCE WOULD NOT RPT NOT, HOWEVER, CONSTITUTE A "MILITARY ACTIVITY" WITHIN MEANING OF ARTICLE 20(B), SO THIS REFERENCE NOT DIRECTLY RELEVANT TO GOJ INQUIRY.

3. EMBASSY SHOULD INFORM JAPANESE, FOR USE IN DIET AS NECESSARY, THAT PROVISION OF MILITARY ASSISTANCE BY OTHER STATES TO GKR IS NOT/NOT PRECLUDED BY VIETNAM AGREEMENT. THE GENEVA AGREEMENTS OF 1954 ON CAMBODIA REFERRED TO IN ARTICLE 20(A) PERMIT THE PROVISION OF MILITARY ASSISTANCE TO THE GKR FOR ITS SELF DEFENSE, AND ARTICLE 20(B) DOES NOT/NOT PRECLUDE THE FURNISHING OF SUCH ASSISTANCE. THE LANGUAGE IN ARTICLE 20(B) ABOUT WITHDRAWAL AND NON-REINTRODUCTION OF ARMAMENTS MUNITIONS, AND WAR MATERIAL WAS INTENDED TO REFER TO THE ARMAMENTS OF FOREIGN FORCES THAT MUST BE WITHDRAWN UNDER THAT ARTICLE, NOT RPT NOT TO THE ACQUISITION OF ARMAMENTS BY THE GOVERNMENTS OF LAOS AND CAMBODIA FOR THEIR SELF DEFENSE AS PERMITTED BY THE GENEVA AGREEMENTS. RUSH

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** TREATY VIOLATION, MILITARY ASSISTANCE, INTERNATIONAL LAW, MILITARY VEHICLES  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 30 MAR 1974  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** golinofr  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1974STATE064547  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** LVERVILLE:MF  
**Enclosure:** n/a  
**Executive Order:** GS  
**Errors:** N/A  
**Film Number:** D740071-0194  
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**Handling Restrictions:** n/a  
**Image Path:**  
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**Line Count:** 92  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ORIGIN L  
**Original Classification:** CONFIDENTIAL  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 2  
**Previous Channel Indicators:**  
**Previous Classification:** CONFIDENTIAL  
**Previous Handling Restrictions:** n/a  
**Reference:** TOKYO 4196  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** golinofr  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 26 MAR 2002  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <26 MAR 2002 by worrelsw>; APPROVED <06 MAY 2002 by golinofr>  
**Review Markings:**

Declassified/Released  
US Department of State  
EO Systematic Review  
30 JUN 2005

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** SHIPMENT OF COMBAT VEHICLES TO CAMBODIA  
**TAGS:** MARR, JA, CB, US  
**To:** TOKYO  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005